



COMMONWEALTH of VIRGINIA

Matthew J. Strickler
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
Blue Ridge Regional Office
901 Russell Drive, Salem, VA, 24153
(540) 562-6700; Fax (540) 562-6725
www.deq.virginia.gov

David K. Paylor
Director

Robert J. Weld
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO LAKE REGION MEDICAL, INC. EPA ID No. VAR000010850

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Lake Region Medical, Inc. in Salem, Virginia, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Salem, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

Consent Order

Lake Region Medical, Inc.; EPA ID. No. VAR000010850

Page 2 of 8

5. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. “Facility” or “Site” means Lake Region Medical, Inc.’s facility located at 200 South Yorkshire Street, Salem, Virginia 24153.
7. “Generator” means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. “Hazardous Waste” means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. “LQG” means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
10. “LRM” means Lake Region Medical, Inc., a corporation authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. LRM is a “person” within the meaning of Va. Code § 10.1-1400.
11. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
12. “Order” means this document, also known as a “Consent Order” or “Order by Consent.”
13. “Regulations” or “VHWMR” means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. “Solid Waste” means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. “Va. Code” means the Code of Virginia (1950), as amended.
16. “VAC” means the Virginia Administrative Code.
17. “Virginia Waste Management Act” means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

18. "VSQG" means a very small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-80-120(A).

SECTION C: Findings of Fact and Conclusions of Law

1. LRM leases and operates the Facility in Salem, Virginia. LRM produces microtube and fine wire from precious metals and other specialty metals in small volumes. Most of the tube is cut into short lengths and polished, while wire is stranded into cable or sold as is. Most of the products are sold to medical device companies. LRM notified as a VSQG of hazardous waste on November 7, 2005 and operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. At the Facility, LRM production operations generate hazardous parts washer solvent waste. Maintenance activities produce hazardous wastes that include solvent test waste, used antifreeze, distillation waste liquids, distillation still bottoms and a small volume of off-specification aerosol cans. Production processes generate regulated wastes, which include used oil and oily rags and wipes. Electronic equipment and computers generate electronic scrap for recycling and universal waste in the form of spent batteries.
3. On July 18, 2018 and August 6, 2018, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations.
4. At the time of the inspection, LRM had failed to immediately notify DEQ that its generation status had increased from a VSQG to a LQG. 9 VAC 20-60-315.D, anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.
5. At the time of the inspection, LRM, as a LQG, had not submitted a biennial report for the hazardous waste generated during the 2015 and 2017 calendar years; the reports were due by March 1, 2016 and March 1, 2018. 40 CFR 262. 41(a) requires an owner or operator to prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year. The biennial report must be submitted on EPA Form 8700-13A/B and cover facility activities during the previous calendar year.
6. At the time of the inspection, LRM had not paid the annual fee for the calendar years during which they were a LQG. This includes the 2015, 2016, and 2017 calendar years. Large Quantity Generators are required by 9 VAC 20-60-262.B.8 to pay an annual fee. The fee schedule and fee regulations are contained in Part XII (9 VAC 20-60-1260 through 9 VAC 20-60-1286).
7. At the time of the inspection, LRM had not notified the Department of its central accumulation area (<90-day accumulation hazardous waste area). 9 VAC 20-60-262.B.4 requires a LQG to notify the department and document in the operating record

that it intends to accumulate hazardous waste in accordance with 40 CFR 262.17 prior to or immediately upon the establishment of each 90-day accumulation area. This notification shall specify the exact location of the 90-day accumulation area at the site.

8. At the time of the inspection, LRM did not have a formalized RCRA contingency plan in place. 40 CFR 262.260(a) requires that a large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release hazardous waste or hazardous waste constituents to air, soil, or surface water. LRM had an electronic file of a small plan entitled "Emergency Action Plan" but the plan did not contain all of the elements specifically required by 40 CFR 262.261(a-f).
9. At the time of the inspection, LRM had not submitted copies of its contingency plan (or Emergency Action Plan) to all local emergency responders. 40 CFR 262.262(a) and 40 CFR 262.256(a) requires that a large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders that may be called upon to provide emergency services. This document may also be submitted to the Local Emergency Planning Committee, as appropriate.
10. At the time of the inspection, LRM was not conducting weekly inspections of its greater than 90-day accumulation area. LRM was not able to provide documentation demonstrating that the inspections were occurring as required. 40 CFR 262.17(a)(1)(v) requires that large quantity generators must inspect central accumulation areas weekly.
11. At the time of the inspection, LRM had no hazardous waste Subpart CC evaluations, determinations, documented plans, or records to demonstrate compliance with 40 CFR 265.1080 (a) (Subpart CC) which applies owners or operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments or containers.
12. At the time of the inspection, LRM did not have a formalized written training plan that met the requirements of 40 CFR 262.17(a)(7)(iv).
13. At the time of the inspection, LRM had not provided an annual hazardous waste management refresher training to personnel whose positions at the Facility are related to hazardous waste management. 40 CFR 262.17(a)(7)(iii) requires that facility personnel must take part in an annual review of the initial training provided by the generator.
14. On October 31, 2018, based on the inspection and follow-up information, the Department issued NOV No. NOV-18-10-BRRO-003 to LRM for the violations described in paragraphs C(4) through C(13), above.
15. Based on the results of the July 18, 2018 and August 6, 2018 inspections and follow-up information, the Board concludes that LRM has violated 9 VAC 20-60-315.D, 40 CFR 262.41(a), 9 VAC 20-60-262.B.8, 9 VAC 20-60-262.B.4, 40 CFR 262.260(a), 40 CFR 262.261(a-f), 40 CFR 262.262(a), 40 CFR 262.256(a), 40 CFR 262.17(a)(1)(v), 40

CFR 265.1080 (a) (Subpart CC), 40 CFR 262.17(a)(7)(iv), and 40 CFR 262.17(a)(7)(iii) as described in paragraphs C(4) through C(13), above.

16. LRM has submitted documentation that verifies that the violations described in paragraphs C(4) through C(13), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders LRM, and LRM agrees to pay a civil charge of **\$19,600** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

LRM shall include its Federal Employer Identification Number (FEIN) 84-1507827 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, LRM shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of LRM for good cause shown by LRM, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, LRM admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. LRM consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. LRM declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by LRM to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. LRM shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. LRM shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. LRM shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and LRM. Nevertheless, LRM agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after LRM has completed all of the requirements of the Order;
- b. LRM petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to LRM.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve LRM from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by LRM and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of LRM certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind LRM to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of LRM.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.


15. By its signature below, LRM voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 23rd day of July, 2019.



Robert J. Weld, Regional Director
Department of Environmental Quality

LRM voluntarily agrees to the issuance of this Order.

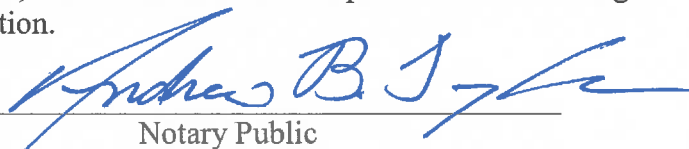
Date: 6/14/19 By: 

Peter A. Hall
Director of Operations
Lake Region Medical, Inc.

Commonwealth of Virginia

City/County of SALEM

The foregoing document was signed and acknowledged before me this 14TH day of JUNE, 2019, by Peter A. Hall, who is the Director of Operations of Lake Region Medical, Inc., on behalf of the corporation.



Notary Public

7552492

Registration No.

My commission expires: 12/31/22

Notary seal:

